



Corridor Program

Congestion Relief & Bus Rapid Transit Projects

APPENDIX P1

Section 404 Corps Individual Permit – Clean Water Act

I-405, SR520 to SR522 Stage 1 (Kirkland Stage 1)

Request For Proposal

July 15, 2005

Revised, Addendum 2

August 5, 2005



**Washington State
Department of Transportation**



**This notice of authorization must be
conspicuously displayed at the site of work.**

United States Army Corps of Engineers

AUG - 4 2005

A permit to ADD LANES TO I-405 FROM SR 520 TO SR 522, RECONFIGURE THE NE 116TH STREET INTERCHANGE AND PERFORM OTHER ENVIRONMENTAL RESTORATION AND MITIGATION ACTIONS (TO PROVIDE TRAFFIC CONGESTION RELIEF BETWEEN SR 520 AND SR 522 IN THE I-405 CORRIDOR) IN STREAMS AND WETLANDS ADJACENT TO TRIBUTARIES TO LAKE WASHINGTON AND THE SAMMAMISH RIVER

at KIRKLAND, BOTHELL, AND UNINCORPORATED KING COUNTY, WASHINGTON.


has been issued to WASHINGTON STATE DEPT. OF TRANSPORTATION on

AUG - 4 2005

Address of Permittee I-405 PROJECT OFFICE, 600 - 108TH AVENUE NORTHEAST, SUITE 405, BELLEVUE, WASHINGTON 98004

Permit Number

200401410


DEBRA M. LEWIS
COLONEL, CORPS OF ENGINEERS
DISTRICT COMMANDER

DEPARTMENT OF THE ARMY PERMIT

Permittee: Washington State Dept. of Transportation

Washington State Dept. of Transportation
I-405 Project Office
600 – 108th Avenue Northeast, Suite 405
Bellevue, Washington 98004

Permit No: 200401410

Issuing Office: Seattle District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: Add lanes to I-405 from State Route (SR) SR 520 to SR 522 (a general purpose northbound lane from Northeast 70th Street to Northeast 124th Street and a southbound general purpose lane from SR 522 to SR 520) reconfigure the Northeast 116th Street Interchange and perform other environmental restoration and mitigation actions in accordance with the plans and drawings dated February 2, 2005, attached hereto which are incorporated in and made a part of this permit (to provide traffic congestion relief between SR 520 and SR 522 in the I-405 Corridor).

Project Location: In streams and wetlands adjacent to tributaries to Lake Washington and the Sammamish River in Kirkland, Bothell, and unincorporated King County, Washington.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on AUG - 4 2008. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 1 month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in accordance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification to this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

7. After a detailed and careful review of all the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit; the permittee will comply fully with all the terms of all the permit conditions.

Special Conditions:

a. You must provide a copy of the permit transmittal letter, the permit form, and drawings to all contractors performing any of the authorized work.

b. The wetland and stream area created, enhanced and preserved as compensatory mitigation for work authorized by this permit, shall not be made the subject of a future individual or general Department of the Army permit application for fill or other development, except for the purposes of enhancing or restoring the mitigation associated with this project. In addition, a description of the mitigation area identified in the final mitigation plan as approved, and any subsequent permit mitigation area revisions, will be recorded with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records to or interest in real property. Proof of this recorded documentation must be provided to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch within 60 days from the date of permit issuance.

c. A status report on the mitigation construction, including as-built drawings, must be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch, 13 months from the date of permit issuance. Annual status reports on mitigation construction are required until mitigation construction is complete.

d. The permittee shall implement and abide by the mitigation plan "I-405, SR 522 to SR 520 Kirkland Nickel Project: Wetland Mitigation Plan" dated June 2005. Mitigation monitoring shall be performed for years 1, 2, 3, 5, 7, and 10 and mitigation monitoring reports summarizing all monitoring results will be due in years 1, 3, 5, 7, and 10 from the due date of the as-built drawings of the mitigation site. All reports must be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch and must prominently display the reference number 200401410.

e. You must implement and abide by the Endangered Species Act (ESA) requirements and/or agreements set forth in the "I-405 Congestion Relief and Bus Rapid Transit Projects: SR 522 to SR 520 Project Biological Assessment," dated August 2004, in its entirety. The U.S. Fish and Wildlife Service (USFWS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on October 25, 2004 (USFWS Reference Number FWS 1-2-04-I-1116). The National Marine Fisheries Service (NMFS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on October 28, 2004 (NMFS Reference Number 2004/00886). Both agencies will be informed of this permit issuance. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your U.S. Army Corps of Engineers permit. The USFWS/NMFS is the appropriate authority to determine compliance with ESA.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbor Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C 1413).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of the permit.
 - b. The information provided by you in support of your application proves to have been false, incomplete, or inaccurate (See 4 above).

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c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

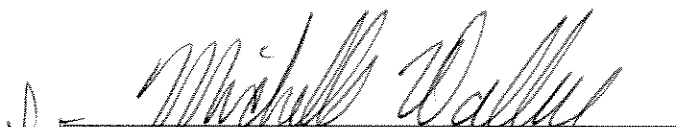
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


Washington State Dept. of Transportation


(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


DEBRA M. LEWIS
Colonel, Corps of Engineers
District Engineer


(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)